



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

JRE

Docket No: 6727-98

5 October 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) NNMC Psych ltr of 6 Aug 99
(3) Dir, NCPB ltr 5420 Ser:00-15, 31 Jul 00
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that her naval record be corrected to show that she was retired by reason of physical disability, or in the alternative, that she be retired in accordance with the Temporary Early Retirement Authority (TERA).
2. The Board, consisting of Ms. Moidel and Schnittman and Dr. Schultz, reviewed Petitioner's allegations of error and injustice on 28 September 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Enclosure (1) was filed in a timely manner.
 - c. Petitioner served on active duty in the Navy from 15 February 1981 to 28 February 1998, when she was separated because of her non-selection for mandatory promotion. She completed 17 years and 14 days of active service.

d. In correspondence attached as enclosure (2), a designee of the Specialty Advisor for Psychiatry, expressed the opinion that at the time of Petitioner's separation, a medical board "would have been reasonable" because of her anxiety and depression, and stated that Petitioner's "request for a medical discharge should be considered."

e. In correspondence attached as enclosure (3), the Acting Director, Naval Council of Personnel Boards, advised the Board, in effect, that the available evidence does not document a sufficiently chronic and sustained pattern of work interruption attributable to anxiety/depression to have warranted a medical board, and "certainly would not have resulted in a disability rating by the Physical Evaluation Board had a medical board been dictated and referred." Accordingly, the Acting Director recommends that Petitioner's request for disability retirement be denied.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner was questionably unfit for duty because of anxiety/depression at the time of her discharge, but those conditions were not severe enough to have been ratable at or above 30% disabling, which is the minimum required for disability retirement. In addition, the Board concludes that in view of Petitioner's lengthy service to the Navy, she should have been accorded retirement under the provisions of TERA in lieu of separation for failure of selection for promotion. Accordingly, it finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

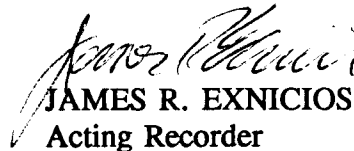
a. That Petitioner's naval record be corrected to show that she was not discharged from the Navy on 28 February 1998.

b. That the record be corrected further to show that on 28 February 1998, the Secretary of the Navy directed that Petitioner be retired in accordance with the Temporary Early Retirement Authority, effective 1 March 1998, and that she was retired on 1 March 1998 in accordance with that directive.

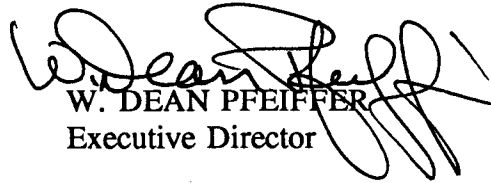
c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director